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C O N F I D E N T I A L SECTION 01 OF 02 KHARTOUM 001372

SIPDIS

DEPT FOR AF A/S FRAZER, SE WILLIAMSON, AF/SPG
NSC FOR PITTMAN AND HUDSON
ADDIS ABABA FOR USAU
DEPT PLS PASS USAID FOR AFR/SUDAN

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TAGS: [ASEC](#) [PGOV](#) [PREL](#) [KDEM](#) [SOCI](#) [AU](#) [UNSC](#) [SU](#)
SUBJECT: GOS MAKES A DANGEROUS ASSUMPTION: PERSUADING THE
U.S. ON THE ICC IS A "HOPELESS CASE"

REF: A. KHARTOUM 1353
[1](#)B. KHARTOUM 1289

Classified By: Charge d'Affaires Alberto M. Fernandez, reasons 1.4(b) and (d)

[1](#)1. (C) On 7 September, Charge Fernandez met with GNU presidential advisor and NCP insider Mustafa Osman Ismail. Armed with the message that the GoS can and should do something fast, serious, and concrete on Darfur to prove that it is serious about engagement with the West, Ismail met the CDA with an attitude of dismissal and inevitability. "I see some negative public messages being sent, and I worry that the GoS is analyzing things the wrong way," said Fernandez. "Kalma, for example, has poisoned the atmosphere with us," he continued (ref B). CDA also referred to hectoring claims by senior officials, attacking NGOs in Darfur as spies.

[1](#)2. (C) Ismail launched in immediately, asking, "Was the atmosphere not already poisoned? Do you believe we are not being serious?" Regarding Kalma, Ismail explained that the GoS has been instructed by the Presidency to investigate the 25 August incident with UNAMID. We have also instructed the Governor of South Darfur to remove GoS security forces from around the camp, said Ismail. That the incident is being investigated, said Fernandez, is good. "If there are actual results, it will be even better," he continued. The Kalma incident shocked us. The GoS is moving backwards in its approach to managing the current crisis, CDA suggested.

[1](#)3. (C) While the U.S. is not a member of the ICC, said Ismail, it is the key to solving the ICC row. Both French envoy Joubert and UK's Lord Malloch Brown signaled Anglo-French flexibility but they said that the U.S. will be the major obstacle to an ICC deferral. "We see now it is the Americans we have to worry about and we didn't expect this." To conciliate the interests of the UK, France, and the U.S. simultaneously, while looking out for the Sudanese interest, is "too complicated," he said. It seems that the U.S., constrained by the electoral clock, already has made up its mind about what it will do, he continued, and we can't change that. CDA Fernandez replied that the U.S. has not decided what it will do, as SE Williamson made very clear. To assume otherwise is a "dangerous" and erroneous assumption. While the US is not a member of the ICC, it is very interested in improving conditions in Darfur. The CDA encouraged Ismail to understand that the GoS should be pro-active now on Darfur that while minimally satisfying the concerns of the Europeans, heavily address improvement of the humanitarian situation on the ground in Darfur. "If the GoS makes a real effort to solve things in Darfur, it has a better chance of

getting out of this," said Fernandez, pointing to conditions on the ground in Sudan as the determining factor on possible US action at the UNSC.

14. (C) Frustrated, Ismail suggested that the U.S. directly bring Darfur rebel factions together to mediate. "We have been telling the rebel groups for a year that we are ready to negotiate. We have been waiting for them to agree to a date and a venue. We are ready to solve this," he said. President Bashir met with newly appointed Chief Mediator Djibrile Bassole and explained to him that we are ready to negotiate at any time with the rebel groups on a cessation of hostilities, compensation, and representation of Darfuris in the central government. "You are the superpower;" said Ismail, "tell us what to do." "You mediate directly," said Ismail.

15. (C) "You are making a mistake," said Fernandez. We (the U.S.) agree that it Darfur has become even more complicated. If rebel leaders such as Khalil Ibrahim and Abdel Wahid El Nour will not come to the table to negotiate, there are other things you can do. "The U.S. wants to see something tangible done in Darfur, not business as usual" said Fernandez. The usual NCP procedure of slow and calculated gradualism would be a mistake. The U.S. vote on an ICC arrest warrant suspension will be determined by one thing: tangible improvement on the humanitarian situation on the ground in Darfur. Ismail snidely retorted, "that,s too complicated, we can't satisfy you", pointing out that rebel sway over the civilian population and IDPs means that Sudan will never get credit for any sort of concessions package. "We don't think the conditions on the ground so far warrant a suspension,"

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responded Fernandez, but assuming that you cannot convince us is both dangerous and destructive, "you should try to do what is right". Ismail said that persuading the U.S. not to block an ICC suspension is a "hopeless case." There is a group in the GoS that believes that we can persuade a majority of the UNSC members to support a suspension, but we will not be able to convince the Americans, so there is no use in even trying. This group is growing, stated Ismail. U.S. elections only make it more difficult, he continued, and America will not loosen the rope that has been put around our neck.

16. (C) Despite this back and forth, Ismail told CDA Fernandez that the U.S. should "bring its package" to the GOS. "Don't play with time," warned Ismail. "If you think our group's impression is wrong (that USG cannot be convinced to forgo a veto), then give us a package and tell us what you want." CDA noted that SE Williamson had suggested that it is Sudan that needed to take urgent, positive steps. "We are doing so and will do more," Ismail responded.

17. (C) CDA Fernandez emphasized that it is dangerous for the GoS to think that there is nothing it can do to change the current trajectory. "You Americans are making me mad," said Ismail. "We do something that we think is right and you don't see it the same way; yet at the same time, you won't tell us what to do." He clarified that Sudan is cooperating fully on UNAMID, ready to do whatever UN/AU Chief Mediator Bassole wants, eager to make peace with Chad, and open to any American suggestion for additional steps. "With a word you could change the dynamic, you could say that Sudan is trying to change" Ismail added, "look how you did it with Libya". Ismail added that the U.S. didn't really seem serious but only going through the motions, "Williamson is interested only in public diplomacy now."

18. (C) CDA noted UK and French concerns about veiled threats about Sudan considering renewing anti-Western actions and policies as a result of an ICC arrest warrant against Bashir. Ismail noted that Sudan will have elections in the coming year and the GoS must take into consideration the interest of its public. We have our own (radical, Islamist) constituency, said Ismail. "Elections are a long way off

still," said Fernandez. You have another constituency: the USA. "Do something now." concluded Fernandez. Ismail closed by noting that "if things do go bad here, if peace is derailed, war and terrorism resume and Sudan breaks up, it will be because of American policies over the past three years. You will have no one to blame but yourselves." CDA suggested gently that Sudan ponder its own responsibility for its own actions over the past few years.

18. (C) Comment: Ismail, as one of the regime's self-declared "moderates" and the NCP's de facto foreign minister enjoys pressing these issues. Despite the usual theatrics in what was actually a pleasant meeting, CDA Fernandez's discussion with Ismail illustrates our concern that some in the regime are concluding that an ICC cure may be worst than the actual disease. Some in the NCP are suggesting that Sudan can never satisfy the West (meaning the U.S.) and that Sudan should even "give up trying" to do the right thing on Darfur, because its insiders believe that no matter what they do, it will not be enough to convince the U.S. to support a suspension of the ICC warrant. It will take too much for the regime to bring a skittish USA along at the Security Council with no guarantee of relief for Sudan's beleaguered regime at the end. While Ismail was ultimately if grudgingly receptive to the idea of some sort of "package" of action on Darfur for our consideration, it is evident that instead of taking the high road, the GoS is tempted to move in the direction of either maintaining the status quo or escalating in the wrong direction. They continue to move in a deliberative and calculating fashion when they actually don't have a lot of time. End comment.
FERNANDEZ